

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SNMP RESEARCH, INC. and SNMP
RESEARCH INTERNATIONAL, INC.,

Plaintiffs,

v.

BROADCOM INC.; BROCADE
COMMUNICATIONS SYSTEMS LLC; and
EXTREME NETWORKS, INC.

Defendants.

Case No. 3:20-cv-00451

**DECLARATION OF MARTIN SKAGEN IN SUPPORT OF BROADCOM INC.'S AND
BROCADE COMMUNICATIONS SYSTEMS LLC'S EVIDENTIARY SUPPLEMENT TO
DEFENDANTS' JOINT MOTION TO DISMISS PLAINTIFFS' COMPLAINT, OR,
ALTERNATIVELY, TO TRANSFER VENUE**

I, MARTIN SKAGEN, declare as follows:

1. I am the Vice President of Architecture and Technology at Brocade Communications Systems LLC. I make this declaration support of Broadcom's and Brocade Communications Systems LLC's Evidentiary Supplement to Defendants' Joint Motion to Dismiss Plaintiffs' Complaint, or, Alternatively, to Transfer Venue ("Motion to Dismiss"). I make this declaration based on personal knowledge as well as a review of business records by me or at my direction, and, if called as a witness, could and would testify competently to such facts under oath.

2. In 2001, Brocade Communications Systems Inc. entered into a license agreement with SNMP Research International, Inc. ("SNMPRI") to license SNMPRI's implementation of the publicly-available standard known as the Simple Network Management Protocol ("SNMP"). Brocade Communications Systems Inc. paid to SNMPRI [REDACTED] [REDACTED] [REDACTED] (Complaint, Exhibit A at § 24(c)); *see also* **Exhibit A** (BROCADE00700270 [REDACTED] [REDACTED]). This license agreement with Brocade, as amended, is the subject of this lawsuit ("License Agreement").

3. Brocade Communications Systems LLC ("Brocade") is one of many indirect subsidiaries of parent holding company Broadcom Inc. *See* Exhibit C to the Declaration of Mark Brazeal (Broadcom Inc. Legal Structures as of October 31, 2021, BROCADE0015863-15870).

4. Brocade has not shared the source code it received from SNMPRI under the License Agreement with Broadcom Inc. or any of Broadcom Inc.'s subsidiaries or affiliates. *See* **Exhibit B** (Brocade's Responses and Objections to SNMPRI's First Set of Interrogatories, Response to Interrogatory No. 1).

5. [REDACTED] [REDACTED] Brocade no longer uses SNMPRI's software in any of its products. Rather, Brocade has replaced SNMPRI's software with a free, open source implementation of SNMP called Net SNMP, which is available on the internet. *See* **Exhibit C** (webpage from <http://www.net-snmp.org/> describing the SNMP implementation and providing links to download).

6. Based on Brocade's reasonably diligent search going back to January 1, 2017 (the time period given in Plaintiffs' discovery requests), Brocade has not directly marketed or sold

its products to consumers in Tennessee.

7. Based on Brocade's reasonably diligent search going back to January 1, 2017 (the time period given in Plaintiffs' discovery requests), Brocade also has not required or directed its OEMs, distributors, or resellers to market or sell Brocade's products nationwide or to end users in Tennessee. Brocade also has not required or directed its OEMs, distributors, or resellers to market or sell support services for Brocade's products nationwide or to end users in Tennessee.

8. To the extent any end users in Tennessee purchased Brocade products from third parties, and those end users were then permitted to download Brocade's Fabric Operating System ("FOS") in object form to run on their products after accepting the terms of the End User License Agreement ("EULA"), such end users would be listed on the FOS download logs that Brocade produced to Plaintiffs. The bates range for these FOS download logs are BROCADE00700291-700299. These spreadsheets collectively contain over one million rows of data. Because they are voluminous and contain non-public proprietary and highly sensitive and confidential information, only excerpts from these spreadsheets are attached. *See, e.g., Exhibit D* (excerpts from FOS download logs).

9. Although Brocade does not directly market or sell its products to customers in Tennessee, it has provided support services to a few Tennessee end users since January 1, 2017, as reflected on the Global Support Revenue spreadsheets that were produced. *See, e.g., Exhibit C* to the Declaration of Steve Gleason (excerpts from the Global Support Revenue spreadsheets identifying certain Tennessee end users).

10. Based on Brocade's reasonably diligent search going back to January 1, 2017 (the time period given in Plaintiffs' discovery requests), Brocade is not aware of any instance in which Broadcom Inc. has required or directed Brocade or Brocade's OEMs, distributors, or resellers to market, sell, license, or distribute Brocade products nationwide or in Tennessee.

Brocade is also not aware of any instance in which Broadcom Inc. has required or directed Brocade or Brocade's OEMs, distributors, or resellers to provide support services nationwide or to end users in Tennessee.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this ___ day of July 22, 2022, at San Jose, California.



Martin Skagen